

DOCKET NO. _____
COMPLAINT NO. 01-11-08L

IN RE

ARTHUR ANDERSEN LLP

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BEFORE THE TEXAS

STATE BOARD OF

PUBLIC ACCOUNTANCY

23 MAY 02 04 14

RECEIVED
STATE OFFICE OF
ADMINISTRATIVE
HEARINGS

NOTICE OF HEARING AND COMPLAINT

TO: Arthur Andersen LLP
711 Louisiana Street, Suite 1300
Houston, Texas 77002

I.

In accordance with Sections 901.508 and 901.509 of the Public Accountancy Act (the "Act") and Sections 2001.051 and 2001.052 of the Administrative Procedure Act, you are hereby notified that a public hearing will be held before an Administrative Law Judge at the State Office of Administrative Hearings, 300 West 15th Street, 4th Floor, Austin, Travis County, Texas 78701. The date and time of such hearing shall be determined following the entry of a scheduling order by the Administrative Law Judge and after there has been sufficient time to conduct discovery on the complex and numerous issues involved in this matter.

II.

The purpose of the hearing will be to determine whether Arthur Andersen LLP ("Andersen") violated the Act by committing violations of the Rules of Professional Conduct of the Texas State Board of Public Accountancy (the "Rules") and whether Andersen is fit to serve the public as a certified public accountant under those same Rules and thus the Act. Revocation of Andersen's certificate to practice public accountancy within the State of Texas will be sought for violation of, without limitation, the Public Accountancy Act, Chapter 901 of the Occupations Code, Subchapter

K, Sections 901.501, 901.502, 901.504 and 901.505 and the Rules promulgated thereunder, Board Rules 501.60, 501.61, 501.70, 501.73 and 501.90.

III.

This matter has been deemed appropriate for public hearing by the Major Case Enforcement Committee of the Texas State Board of Public Accountancy and the Committee has requested that the Attorney General file this Notice of Hearing and Complaint. This action will be prosecuted by the Texas Attorney General's Office. Following conclusion of the hearing, the Administrative Law Judge shall make a recommendation to the Texas State Board of Public Accountancy which may be adopted, modified, or rejected by the Board pursuant to Texas law.

IV.

The hearing will be conducted in accordance with Texas law including the Public Accountancy Act, the Administrative Procedure Act, the Texas State Board of Public Accountancy Rules of Professional Conduct, and the Rules of the State Office of Administrative Hearings.

V.

Upon Andersen's failure to appear at the hearing, the factual allegations in this notice of hearing and complaint will be deemed admitted as true, and the relief sought herein may be granted by default, regardless of whether additional proof is submitted.

VI.

Pursuant to Sections 2001.052(a)(3) and 2001.052(a)(4) of the Administrative Procedure Act and Section 901.509 of the Public Accountancy Act, the following allegations are made:

A. Andersen holds certificate number P04508 issued by the Board on September 7, 1994.

Andersen and its predecessor entities have held a certificate to practice public accountancy

in Texas since January 29, 1946. Andersen is under the jurisdiction of the Board and is subject to sanction pursuant to the Board's enforcement authority.

B. Andersen violated the Public Accountancy Act and the Rules of the Board in the conduct of its audits of Enron Corporation financial statements.

1. Andersen audited the financial statements of the Enron Corporation for the fiscal years ended December 31, 1997 through 2000. As Enron's auditor, Andersen issued audit reports stating that Enron financial statements were presented fairly in accordance with generally accepted accounting principles (GAAP).
2. Enron's financial statements for the fiscal years ended December 31, 1997 through 2000 were not presented fairly in accordance with GAAP.
3. Andersen did not comply with generally accepted auditing standards (GAAS) in its audits of Enron financial statements for the fiscal years ended December 31, 1997 through 2000.
4. Andersen's failures to comply with GAAP and GAAS violate Board Rules 501.60 and 501.61.
5. Andersen knew that Enron's financial statements were false and misleading because of their departures from GAAP and because of Andersen's departures from GAAS and/or Andersen failed to have adequate procedures in place to determine that representations made by Enron were false, which led to the issuance of false and misleading financial statements and the audit opinions thereon.
6. Despite the falsity of the Enron financial statements, Andersen has failed and refused to repudiate or withdraw its audit opinions on such financial statements.

7. Andersen committed acts discreditable to the profession by participating in the preparation of false and misleading financial statements in violation of Board Rules 501.90(2) and (8).
- C. Andersen further lacked independence, integrity and objectivity in the performance of this engagement in violation of Board Rules 501.70 and 501.73. Andersen's failure to comply with professional standards was not the result of the actions of one "rogue" partner or "out-of-control" office, but resulted from Andersen's organizational structure and corporate climate that created a lack of independence, integrity and objectivity.
1. Andersen received over \$1 million dollars a week in fees paid by Enron for audit, internal audit, consulting, and tax services. This level of fees, and the nature of the services provided, in conjunction with the conduct set forth herein, demonstrates that Andersen lacked independence in the Enron engagement.
 2. The structure and operating model of Andersen led to a lack of independence and a culture that placed profits over professionalism.
 3. The criminal conduct attributable to Andersen is further evidence of its lack of integrity.
- D. Andersen engaged in document destruction bringing discredit to the profession punishable under the Rules and the Act, regardless of whether Andersen is ultimately convicted of a criminal charge of obstruction of justice.
1. Former Andersen partner David Duncan has pled guilty to a felony count of obstruction of justice for his role in the destruction of records relevant to the audits of Enron. As an agent of Andersen, Mr. Duncan's conduct is attributable to

Andersen. Such conduct constitutes an act discreditable to the profession in violation of Board Rule 501.90.

2. The destruction of records reflects adversely on Andersen's fitness to engage in the practice of public accountancy and further demonstrates a lack of integrity and objectivity in violation of Board Rule 501.73.
3. Regardless of the potential criminality of this conduct, the destruction of these records is an act discreditable to the profession in violation of Board Rule 501.90. If Andersen is convicted of a felony criminal offense, this would require immediate suspension and ultimate revocation of its certificate under Section 901.505 of the Public Accountancy Act.

E. Andersen's actions and conduct as set forth herein violate the Act, Sections 901.502(6) regarding a violation of a rule of professional conduct and 901.501(11) regarding lack of fitness to serve the public as a professional accountant.

It is submitted that discovery in this matter may reveal additional violations and the undersigned expressly reserves the right to amend this complaint to add additional claims and raise additional theories as may be appropriate.

VII.

Pursuant to Section 901.501(7) of the Act, there exists the authority to impose direct administrative costs related to disciplinary actions. It is anticipated such costs will be exceedingly high in light of the size and scope of Andersen's Enron engagement as well as the sheer number of

violations of applicable professional standards, Board Rules, and Texas law. The undersigned reserves the right to amend this statement of administrative costs at any time.

VIII.

Pursuant to subchapter L of the Act and Section 519.7 of the Board's Rules, based on the above allegations the Board reports that Andersen should be assessed an administrative penalty of \$1000 for each violation of the Act that is proved at time of hearing. It is estimated that these individual violations could number into the thousands as the Enron financial statements are substantial and complex and contain numerous departures from GAAP, as the Andersen audits of such financial statements contain numerous departures from GAAS, and as each document destroyed is potentially a violation of Board Rules. Further, pursuant to Section 901.552 of the Act, the amount of the administrative penalty reflects a determination of the seriousness of Andersen's violations as well as consideration of all other required factors under the Act.

IX.

This Notice of Hearing and Complaint represents the preliminary report of determination under Section 901.553 of the Act and Section 519.7 of the Board's Rules.

X.

Pursuant to Section 901.553 of the Act, Andersen has a right to a hearing related to the violations listed above and the amount of penalty sought. Andersen must request such a hearing no more than twenty days after receipt of this notice or Andersen's right to hearing will be waived.

XI.

Pursuant to Section 901.509 of the Act and Section 2001.052(a)(4) of the Administrative Procedure Act, this Notice of Hearing and Complaint is intended to give a short and plain statement

of the allegations against Andersen. The undersigned reserves the right to amend this complaint. Andersen is hereby placed on notice, pursuant to Sections 901.501 and 901.502 of the Public Accountancy Act, that the right is reserved to pursue investigation of all acts of Andersen that would subject Andersen to disciplinary enforcement under the Act. Also pursuant to Sections 901.501 and 901.502 of the Act, any and all procedural means available in this administrative hearing, including discovery, as well as any and all independent procedures to investigate all conduct of Andersen that would subject Andersen to disciplinary enforcement under the Act are hereby reserved.

XII.

The Administrative Law Judge may be asked to take judicial notice of any and all appropriate matter and materials including but not limited to the Board's Rules, the Public Accountancy Act, and the Administrative Procedure Act, and any prior enactments thereof.

XIII.

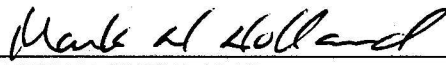
It is hereby respectfully requested that the Administrative Law Judge make all appropriate findings of fact and conclusions of law supporting a recommendation that Andersen's certificate to practice public accountancy within the State of Texas be revoked, that administrative costs be assessed against Andersen, that an administrative penalty in an amount estimated to exceed \$1,000,000 be assessed against Andersen, and for such further relief as may be appropriate.

Respectfully submitted,

HOWARD G. BALDWIN, JR.
First Assistant Attorney General

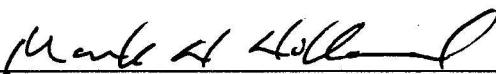
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Notice of Hearing and Complaint was sent by certified mail, return receipt requested on this the 23rd day of May 2002, to Arthur Andersen LLP, 711 Louisiana Street, Suite 1300, Houston, Texas 77002.


Mark H. Holland